The opinion in support of the decision being entered today was <u>not</u> written for publication in a law journal and is <u>not</u> binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte ALIC SCOTT, JOHN GILLEY, and CRAIG ZOLTOWSKI

Appleal No. 2005-1062 Application 09/874,856

ORDER DISMISSING APPEAL

MAILED

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U.S. PATENT AND TRADEMARK OFFICE BOARD OF PATENT APPEALS AND INTERFERENCES

Before FLEMING, <u>Chief Administrative Patent Judge</u>, HARKCOM, <u>Vice Chief Administrative Patent Judge</u>, and WILLIAM F. SMITH, <u>Administrative Patent Judge</u>.

Per curiam.

On September 6, 2005, counsel for the appellants filed, among other documents, a Request for Continued Examination (RCE) under 37 CFR § 1.114. Pursuant to the notice entitled "Request for Continued Examination Practice and Changes to Provisional Application Practice," 65 Fed. Reg. 50092, 50095 (Aug. 16, 2000), and the provisions of 37 CFR § 1.114(d), a request for continued examination under 37 CFR § 1.114 filed after appeal has been taken, but prior to a decision on the appeal, "will be treated as a request to withdraw the appeal and to reopen prosecution of the application before the examiner."

Accordingly, the appeal in this application is dismissed.

Application 09/874,856

The application is being returned to the examiner for further action as may be appropriate.

Michael R. Fleming, Chief Administrative Patent Judge

Gary V. Harkoom, Vice Chief Administrative Patent Judge

Administrative Patent Judge

BOARD OF PATENT APPEALS AND INTERFERENCES

The Procter & Gamble Company Intellectual Property Division Winton Hill Technical Center - Box 161 6110 Center Hill Avenue Cincinnati, OH 45224

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